

IN THE DRAWINGS

A replacement sheet for Fig. 1 is submitted herewith, with a Submission of Proposed Drawing Amendment.

REMARKS

Reconsideration and allowance of this application are respectfully requested in light of the above amendments and the following remarks.

Fig. 1 has been amended to include a legend identifying the drawing as related art to thereby overcome the applied objection.

Claims 1, 3, 5, 8, 10, and 12 stand rejected, under 35 USC §102(b), as being anticipated by Hiramatsu et al. (US 2002/0136271). Claims 2, 6, and 9 stand rejected, under 35 USC §103(a), as being unpatentable over Hiramatsu et al. (US 2002/0136271) in view of Nobukiyo et al. (US 2003/0073409). Claim 4 stands rejected, under 35 USC §103(a), as being unpatentable over Hiramatsu et al. (US 2002/0136271) in view of Srivastava et al. (US 6,735,178). Claim 7 stands rejected, under 35 USC §103(a), as being unpatentable over Hiramatsu et al. (US 2002/0136271) in view of Ryu (US 2002/0126645). Claim 11 stands rejected, under 35 USC §103(a), as being unpatentable over Hiramatsu et al. (US 2002/0136271) in view of Hans et al. (US 2005/0037766). The Applicant respectfully traverses these rejections based on the points set forth below.

Claim 1 defines a base station apparatus that selects a mobile station, to which a data channel is assigned, in accordance with both the channel quality of a control channel that transmits control information necessary for data transmission on the data channel and the channel quality of the data channel. The claimed subject matter provides an advantage of supporting use of two measures of communication quality so as to avoid unnecessarily raising transmission power of a channel and thereby creating adjacent cell interference and reduced communication efficiency (see specification page 4, line 1, through page 5, line 11).

The Office Action proposes that Hiramatsu discloses, in Fig. 3 and paragraphs [0003] and [0048]-[0051], the Applicant's claimed subject matter of a control channel that transmits control information necessary for data transmission on a data channel (see Office Action section 3, lines 7-11). More specifically, the Office Action proposes that Hiramatsu's common pilot control channel (CPICH) corresponds to the Applicant's claimed control channel and Hiramatsu's downlink shared channel (DSCH) information is based on the CPICH (see section 3, lines 7-11).

However, Hiramatsu does not disclose that DSCH information is based on the CPICH, as proposed in the Office Action. And this is as expected, because Hiramatsu discloses that the CPICH communicates a common known signal (see Hiramatsu paragraphs [0003] and [0048], lines 1-2), which has no effect on the selection of information communicated in a channel. As a result, it cannot reasonably be said that the DSCH information is based on the CPICH, as proposed in the Office Action.

Although Hiramatsu discloses that a modulation/coding system (MCS1) of the DSCH is "based" on the estimated reception quality of the DSCH signal and a DSCH is selected "based" on the MCS1 included in a dedicated physical channel (DPCH) (see paragraph [0050], lines 6-11, and paragraph [0051], lines 1-6), this is not identical to the Applicant's claimed subject matter of a control channel that transmits control information necessary for data transmission on a data channel. Hiramatsu nowhere discloses that the CPICH conveys anything other than the common known signal or that this common known signal is information necessary for data transmission on a data channel.

Accordingly, the Applicant submits that Hiramatsu does not anticipate the subject matter defined by claim 1. Independent claim 12 similarly recites the above-mentioned subject matter

distinguishing apparatus claim 1 from Hiramatsu, but does so with respect to a method. Therefore, the rejections applied to claims 2, 4, 6, and 7 are deemed to be obviated, and allowance of claims 1 and 12 and all claims dependent therefrom is considered to be warranted.

Independent claim 8 defines a mobile station that determines, in accordance with the channel quality of a control channel, whether or not channel quality information of a data channel is to be transmitted.

The Office Action proposes that Hiramatsu discloses, in paragraphs [0065]-[0067], an SIR estimation section that transmits channel quality information to an MCS1 section (see Office Action page 4, fourth paragraph). However, Hiramatsu's disclosure of transmitting information is not identical to the Applicant's claimed subject matter of determining whether to transmit information based on a particular criterion.

Accordingly, the Applicant submits that Hiramatsu does not anticipate the subject matter defined by claim 8. Therefore, the rejections applied to claims 9 and 11 are deemed to be obviated, and allowance of claim 8 and all claims dependent therefrom is considered to be warranted.

To promote a better understanding of the patentable distinctions of the claimed subject matter over the applied references, the Applicant provides the following additional remarks.

Features of independent claims 1 and 12 include a base station that selects a mobile station to which a data channel is assigned, in accordance with both the channel quality of a control channel for transmitting control information necessary for data transmission on the data channel and the channel quality of the data channel.

Features of independent claim 8 include a mobile station that determines whether or not channel quality information that is generated from the channel quality of a data channel is to be transmitted, in accordance with the channel quality of a control channel.

By contrast with the Applicant's claimed subject matter, Hiramatsu discloses that a mobile station selects a base station, which becomes the request destination for a data channel, based on the reception quality of a control channel, the transmit power of the data channel, and the transmit power of the control channel (see Hiramatsu paragraph [0024]). Hiramatsu also discloses assigning a data channel to a mobile station having high DSCH channel quality (see paragraphs [0048]-[0051]). Hiramatsu further discloses that a mobile station's SIR estimation section estimates the channel quality of the DSCH using the channel quality of the CPICH and outputs the estimated channel quality of the DSCH to an MCS decision section (see paragraphs [0065]-[0066]).

Hiramatsu's CPICH is a control channel that is common among mobile stations for estimating downlink channel quality, and, in particular, a control channel for transmitting a pilot signal that does not contain information and is not a control channel unique to each mobile station for transmitting control information necessary for data transmission on a data channel. That is, Hiramatsu's CPICH is completely different from the control channel recited in independent claims 1 and 12 of the present application. Thus, Hiramatsu fails to disclose or suggest the above-noted feature of independent claims 1 and 12 of selecting a mobile station to which a data channel is assigned, in accordance with both the channel quality of a control channel for transmitting control information necessary for data transmission on the data channel and the channel quality of the data channel.

Moreover, Hiramatsu discloses transmitting MCS information created based on the channel quality of DSCH from a mobile station to a base station at all times (see paragraphs [0065]-[0067]). Thus, it is submitted that Hiramatsu fails to disclose or suggest the above-noted feature of independent claim 8 of determining whether or not channel quality information that is generated from the channel quality of a data channel is to be transmitted, in accordance with the channel quality of a control channel.

In view of the above, it is submitted that this application is in condition for allowance, and a notice to that effect is respectfully solicited.

(It should be noted that references herein to the specification and drawings are for illustrative purposes only and are not intended to limit the scope of the invention to the referenced embodiments.)

Respectfully submitted,

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